

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN DUNN,

Plaintiff,

v.

OFFICER F. RODRIGUEZ,

Defendants.

No. 2:23-cv-0309 KJN P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se.

In Forma Pauperis Request

Plaintiff requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a).

Accordingly, the request to proceed in forma pauperis is granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff is obligated to make monthly payments of twenty percent of the preceding month's income credited to plaintiff's trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the

1 amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C.  
2 § 1915(b)(2).

3 Failure to Amend

4 By order filed April 24, 2023, plaintiff's complaint was dismissed, and thirty days leave to  
5 file an amended complaint was granted. On August 31, 2023, plaintiff's request for  
6 reconsideration was granted, the undersigned affirmed the screening order, and plaintiff was  
7 granted an additional thirty days to file an amended complaint. Plaintiff sought another  
8 extension, and on October 11, 2023, plaintiff was granted an additional thirty days in which to file  
9 an amended complaint. Thirty days from that date have expired, and plaintiff has not filed an  
10 amended complaint or otherwise responded to the court's order.

11 In accordance with the above, IT IS HEREBY ORDERED that:

12 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

13 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff  
14 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.  
15 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the  
16 Director of the California Department of Corrections and Rehabilitation filed concurrently  
17 herewith.

18 3. The Clerk is directed to assign a district judge to this case.

19 Further, IT IS RECOMMENDED that this action be dismissed without prejudice. See  
20 Local Rule 110; Fed. R. Civ. P. 41(b).

21 These findings and recommendations are submitted to the United States District Judge  
22 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
23 after being served with these findings and recommendations, plaintiff may file written objections  
24 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
25 and Recommendations." Plaintiff is advised that failure to file objections within the specified

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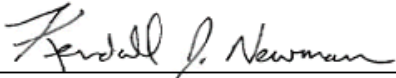
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time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: December 29, 2023

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE